

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

**LENZY BUTLER,**

**Plaintiff,**

**v.**

**TERRY McCANN,  
et al.,**

**Defendant.**

**No. 06-cv-0038-DRH**

**MEMORANDUM and ORDER**

**HERNDON, Chief Judge:**

On January 18, 2006, Lenzy Butler, a former inmate within the Illinois Department of Corrections, brought this action for deprivations of constitutional rights pursuant to 42 U.S.C. § 1983 while he was housed at the Shawnee Correctional Center located in Vienna, Illinois (Doc. 1). Specifically, Butler claims that Defendants were deliberately indifferent to his medical needs in that he has stomach cancer and that Defendants refused to provide him a special diet, refused to schedule open heart surgery for him, refused to schedule a biannual tissue biopsy, refused to transfer him to a prison that was equipped to handle his ailments and gave him medicine that did not ease his pain. Shortly after he filed suit, Butler was released from prison.

Pursuant to **28 U.S.C. § 636(b)(1)(B)**, Magistrate Donald G. Wilkerson submitted a Report and Recommendation (“the Report”) on March 2, 2009 (Doc. 21).

The Report recommends that the Court grant Defendants' motion to for sanctions (Doc. 18) and dismiss with prejudice Butler's case for failure to prosecute. The Report was sent to the parties with a notice informing them of their right to appeal by way of filing "objections" within ten days of service of the Report. To date, none of the parties has filed objections.<sup>1</sup> The period in which to file objections has expired. Therefore, pursuant to **28 U.S.C. § 636(b)**, this Court need not conduct *de novo* review. **Thomas v. Arn, 474 U.S. 140, 149-52 (1985)**.

Accordingly, the Court **ADOPTS** the Report (Doc. 21). The Court **GRANTS** McCann's motion for sanctions (Doc. 18). The Court **ORDERS** Butler to pay Defendant McCann \$60.00 for the court reporter's fee. The Court **DISMISSES** **with prejudice** Butler's case for failure to prosecute. Further, the Court **ORDERS** the Clerk of the Court to enter judgment reflecting same.

**IT IS SO ORDERED.**

Signed this 20th day of March, 2009.

/s/ David R. Herndon  
**Chief Judge**  
**United States District Court**

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<sup>1</sup>The Clerk's Office sent a copy of the Report to Butler on March 3, 2009 to the address on file. On March 6, 2009, the Report was returned to the Clerk's Office as undeliverable (Doc. 22). In the Court's October 31, 2006 Preliminary Review Order, the Court informed Butler of his continuing obligation to keep the Court informed of his whereabouts (Doc. 6, p.8).